IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION NO.67 OF 2006

M/s.Flocon Industries ..Petitioners

Versus

M/s.BDH Industries Ltd., ..Respondents

Mr.Jaideep Raut i/by C.N.Nair for petitioners.

Mr.Sandeep Bhimekar i/by Wadia Gandhy & Co. for respondents.

Coram : R.S.Mohite,J

Date : 8.12.2006.

PC

1. Heard both sides. This is a petition filed for winding up of the respondent-company. The petitioners claimed that they have supplied goods and had worked as per the contract. They made demand of payment but full amount was not paid. In reply to the statutory notice, in paragraph-4 the respondent-company has stated that out of the contractual amount of Rs.9,02,630/-, a sum of Rs.7,06,304/- has been paid. That necessarily means that amount of Rs.1,96,326/- has not been paid. The petitioners have earlier filed a suit, being Suit no.1740/2000 in this Court for recovery of the amount due. In the circumstances, respondent-company is given 6 weeks time to deposit amount of Rs.1,96,326/- in this Court. If the said amount is deposited within 6 weeks, petition to

stand dismissed and the amount deposited to stand transferred to the suit account of suit bearing Suit no.1740/2000. There will be liberty to the parties to apply for investment of the amount pending the disposal of the Suit. However, if the amount is not deposited, the petition to stand admitted. It may be stated that reliance was placed on behalf of the respondent-company on the judgment of the single Judge of the Karnataka High Court in the case of **Hariom Fire Stock Ltd., V/s. Sunjal Engineering Pvt. Ltd., reported in 1999(96) Company Case page-349,** stating that the petition will have to be dismissed because the amount was time barred. That question will be considered if and when the Company petition comes for final hearing. The said question is left open. If the petition is admitted then it will be advertised in Free Press Journal and Navshakti as well as in official gazatte and for this purpose the petitioners will be required to deposit Rs.5000 towards advertisement charges. Certified copy expedited.

(R.S.Mohite,J)